

1 CALEB MARKER (SBN 269721)  
caleb.marker@zimmreed.com  
2 **ZIMMERMAN REED LLP**  
6420 Wilshire Blvd., Suite 1080  
3 Los Angeles, California 90048  
Telephone: (877) 500-8780  
4 Facsimile: (877) 500-8781

5 BRIAN C. GUDMUNDSON (*pro hac vice*)  
brian.gudmundson@zimmreed.com  
6 RACHEL K. TACK (*pro hac vice*)  
rachel.tack@zimmreed.com  
7 MICHAEL J. LAIRD (*pro hac vice*)  
michael.laird@zimmreed.com  
8 **ZIMMERMAN REED LLP**  
1100 IDS Center  
9 80 South 8th Street  
Minneapolis, Minnesota 55402  
10 Telephone: (612) 341-0400  
Facsimile: (612) 341-0400

11 *Attorneys For Plaintiff and Putative Class*  
12 (additional attorneys listed on signature page)

13 **UNITED STATES DISTRICT COURT**  
14 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
15

16 KHUSCHBU DIDWANIA,  
17 PRATIKKUMAR PATEL, and  
BENJAMIN ADAMS,

18 Plaintiffs,

19 v.

20 HEXCLAD COOKWARE, INC.

21 Defendant.  
22  
23  
24

Case No. 2:23-cv-05110

**COMPLAINT – CLASS ACTION**

1. Breach of Express Warranty
2. Negligent Misrepresentation
3. Violation of the California Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*
4. Violation of the California False Advertising Law, California Business and Professions Code § 17500, *et seq.*
5. Violation of the California Unfair Competition Law, California Business and Professions Code § 17200, *et seq.*
6. Unjust Enrichment

(Plaintiffs Demand Trial by Jury)

1 Plaintiffs Khushbu Didwania, Pratikkumar Patel, and Benjamin Adams  
 2 (“Plaintiffs”), by and through their attorneys of record, upon personal knowledge as  
 3 to their own acts and experiences, and upon the investigation of counsel and  
 4 information and belief as to other matters, file this complaint against HexClad  
 5 Cookware, Inc. (“HexClad” or “Defendant”) and allege the following:

## 6 INTRODUCTION

7 1. This is a proposed class action against HexClad for misleading  
 8 consumers through its marketing related to HexClad cookware products, including  
 9 claims related to the cookware being “non-toxic” or “free from” certain chemicals.

10 2. In recent years, consumers have become increasingly concerned about  
 11 using products that are cleaner and safer for humans, animals, and the environment.  
 12 As a result, consumers are demanding products that are made from more natural  
 13 ingredients and are environmentally sounder, including products that cause less  
 14 harm to the environment through the product’s materials, manufacture, use, or  
 15 disposal. Indeed, consumers have poured billions of dollars into the “ecofriendly”  
 16 and “natural” products market.<sup>1</sup>

17 3. In a recent report, researchers found that members of “Generation Z”  
 18 (people born between roughly 1996 and 2010) are more likely to spend money on  
 19 companies and brands seen to be environmentally ethical.<sup>2</sup> Another  
 20 report, Nielson’s Global Corporate Sustainability Report, found that 66% of  
 21 consumers would spend more on a product if it comes from a sustainable brand, and  
 22 that jumps to 73% among millennials. Therefore, companies have a financial  
 23 incentive to be more environmentally conscious, or at least appear to be.<sup>3</sup>

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24  
 25 <sup>1</sup> [https://www.foodbusinessnews.net/articles/13133-sustainable-product-market-](https://www.foodbusinessnews.net/articles/13133-sustainable-product-market-could-hit-150-billion-in-us-by-2021)  
 26 [could-hit-150-billion-in-us-by-2021](https://www.foodbusinessnews.net/articles/13133-sustainable-product-market-could-hit-150-billion-in-us-by-2021)

27 <sup>2</sup> <https://earth.org/what-is-greenwashing/>.

28 <sup>3</sup> *Id.*

1           4.     This consumer movement toward environmentally friendly and safe  
 2 products is generally called the “green” movement. Some companies, like  
 3 Defendant, deceptively market their products as environmentally friendly and free  
 4 from harmful chemicals to profit off this growing green movement without *actually*  
 5 going green. This is known as “greenwashing.” “Greenwashing” generally describes  
 6 the act of companies misleading consumers regarding the company’s environmental  
 7 practices or the environmental/health benefits of its products or services.  
 8 Greenwashers do not make notable efforts toward an environmentally friendly  
 9 marketplace, certainly not to the extent that they frequently claim.<sup>4</sup>

10           5.     HexClad Cookware claims that their products are free from PFOA and  
 11 PFAS “forever chemicals” while also admitting they are coated with  
 12 polytetrafluoroethylene (PTFE) and marketing PTFE as safe and inert. The PTFE  
 13 compound found in the non-stick coating of HexClad Cookware is a fluoropolymer  
 14 plastic compound that is silicone based and contains both carbon and fluorine.<sup>5</sup>

15           6.     According to the State of California, where HexClad is headquartered,  
 16 and laws therein, PTFE is a type of PFAS chemical. It is therefore misleading for  
 17 HexClad to represent to consumers that its cookware is free from PFOAs and all  
 18 PFAS. Additionally, pursuant to the California Safer Food Packaging & Cookware  
 19 Act of 2021, cookware sold in California is restricted from making certain  
 20 “chemical-free” claims in promoting their cookware.

21           7.     Thus, in addition to being deceptive and misleading HexClad’s “free  
 22 from” claims violate California law.<sup>6</sup>

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23  
 24 <sup>4</sup> <https://www.businessnewsdaily.com/10946-greenwashing.html>.

25 <sup>5</sup> <https://www.stonefryingpans.com/non-stick-frying-pan-health-risks/>.

26 <sup>6</sup> *California Requires New Cookware Chemical Labeling Requirements* by  
 January 1<sup>st</sup>, JDSUPRA, Nov. 30, 2022,

27 <https://www.jdsupra.com/legalnews/california-requires-new-cookware-2459164/>  
 28 (last visited June 1, 2023)

1           8. Unfortunately for consumers, there are health concerns surrounding  
2 PFOA because it stays in the human body, as well as in the environment, for  
3 significant periods of time. Health studies on PFOA indicate that people who have  
4 been exposed to the chemical are more at risk for endocrine disruption, cancer,  
5 thyroid disease, bladder, kidney, and testicular cancer, liver damage and disease, and  
6 colitis. When PFOA is used in making non-stick cookware, it can be a significant  
7 health risk over time, particularly because the non-stick coating burns off during the  
8 cooking process, becoming a toxic pollutant that may make its way into food or into  
9 the air we breathe. PFOA is used in the process of making PTFE.<sup>7</sup>

10           9. On October 26, 2022, Consumer Reports (“CR”) published a report  
11 from a test it conducted on several purported “non-toxic” cookware. It tested three  
12 nonstick pans that all claimed to be free from PFAS, including the coatings on the  
13 Swiss Diamond, Always, and Red Copper nonstick frying pans to see if they were  
14 really free from PFAS chemicals.<sup>8</sup> The Swiss Diamond pan had a PTFE coating and  
15 was said to be PFOA-free and used PTFE in its non-stick coating, identical or  
16 substantively similar to HexClad’s cookware.

17           10. The CR test revealed that the PTFE coated Swiss Diamond pan had  
18 measurable amounts of PFOA and several other PFAS. Specifically, the Swiss  
19 Diamond pan had measurable levels of 16 of the 96 PFAS included in the test and 4  
20 parts per billion (ppb) of PFOA in the PTFE coating, even though the package said  
21

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22 <sup>7</sup> *Id*; see also Kyle Bagentose, *What are PFAS? A guide to understanding*  
23 *chemicals behind nonstick pans, cancer fears*, Mar. 7, 2022,  
24 <https://www.usatoday.com/story/news/2022/03/07/pfas-guide-chemicals/6652847001/> (last visited June 20, 2023).

25 <sup>8</sup> Kevin Loria, *You Can’t Always Trust Claims on ‘Non-Toxic’ Cookware*,  
26 CONSUMER REPORTS, Oct. 26, 2022, <https://www.consumerreports.org/toxic-chemicals-substances/you-cant-always-trust-claims-on-non-toxic-cookware-a4849321487/> (last visited May 25, 2023).  
27  
28

1 it was PFOA-free.

2 11. CR further concluded that PFOA-free should not be displayed on non-  
3 stick cookware containing a PTFE coating, because that claim is unreliable and also,  
4 consumers looking to avoid PFAS in cookware should look for products that claim  
5 to be “PTFE free”.<sup>9</sup>

6 12. HexClad claims its cookware is “non-toxic” and “free from PFOAs”  
7 and PFAS, but the cookware has a PTFE non-stick coating just like the Swiss  
8 Diamond pan. This claim misleads consumers into thinking the HexClad Cookware  
9 is certainly free from all PFAS and PFOAs when this is highly unlikely, and in fact  
10 related studies have concluded such claims to be unreliable.

11 13. Plaintiffs individually and on behalf of a class of similarly situated  
12 individuals, bring this class action to end Defendant’s deceptive practice and to  
13 recover damages from Defendant’s deception.

#### 14 JURISDICTION AND VENUE

15 14. This Court has jurisdiction over all causes of action asserted herein  
16 pursuant to 28 U.S.C. §1332(d), because the aggregate claims of the Class exceed  
17 the sum or value of \$5,000,000.00, and there is diversity of citizenship between  
18 plaintiffs, who, as alleged below, are citizens of different states than Defendant.

19 15. Venue is proper in this District pursuant to 28 U.S.C. §1391(a)(1) and  
20 (2). Defendant is headquartered in this District and substantial acts in furtherance  
21 of the alleged improper conduct occurred within this District.

#### 22 PARTIES

##### 23 Plaintiff Khushbu Didwania’s Experience

24 16. Plaintiff Didwania is a resident of Fremont, California.

25 17. Plaintiff Didwania purchased the HexClad 12-inch Hybrid Wok Pan in  
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27 <sup>9</sup> *Id.*

1 or around September of 2022 through Defendant's listings on Amazon.com.

2 18. As described herein, Defendant represented to Plaintiff that this product  
3 was a non-toxic, metal-utensil safe, hybrid non-stick pan.

4 19. Plaintiff trusted and relied upon the representations made by Defendant,  
5 as described herein, when purchasing this product, including but without limitation,  
6 that the pan was non-toxic and free from harmful substances, such as PFOA and  
7 other PFAS chemicals.

8 20. Had Plaintiff known the HexClad product purchased did not conform  
9 to Defendant's representations that it was non-toxic and free from harmful  
10 substances, such as PFOA and other PFAS chemicals, Plaintiff would not have  
11 purchased the product or would have paid significantly less for it.

12 **Plaintiff Pratikkumar Patel's Experience**

13 21. Plaintiff Patel is a resident of Bellevue, Washington.

14 22. Plaintiff Patel purchased the HexClad 10-inch Hybrid Pan in or around  
15 August of 2022 through Defendant's listings on Amazon.com.

16 23. As described herein, Defendant represented to Plaintiff that this product  
17 was a non-toxic, metal-utensil safe, hybrid non-stick pan.

18 24. Plaintiff trusted and relied upon the representations made by Defendant,  
19 as described herein, when purchasing this product, including but without limitation,  
20 that the pan was non-toxic and free from harmful substances, such as PFOA and  
21 other PFAS chemicals.

22 25. Had Plaintiff known the HexClad product purchased did not conform  
23 to Defendant's representations that it was non-toxic and free from harmful  
24 substances, such as PFOA and other PFAS chemicals, Plaintiff would not have  
25 purchased the product or would have paid significantly less for it.

26 **Plaintiff Benjamin Adams' Experience**

27 26. Plaintiff Adams is a resident of Union, New Jersey.

1           27. Plaintiff Adams purchased the HexClad 12-inch Hybrid Pan in or  
2 around April of 2023 through Defendant's website.

3           28. As described herein, Defendant represented to Plaintiff that this product  
4 was a non-toxic, metal-utensil safe, hybrid non-stick pan. HexClad describes the  
5 coating on this pan as "high-grade non-toxic Japanese coating infused with diamond  
6 dust for extra toughness."<sup>10</sup>

7           29. Plaintiff trusted and relied upon the representations made by Defendant,  
8 as described herein, when purchasing this product, including but without limitation,  
9 that the pan was non-toxic and free from harmful substances, such as PFOA and  
10 other PFAS chemicals.

11           30. Had Plaintiff known the HexClad product purchased did not conform  
12 to Defendant's representations that it was non-toxic and free from harmful  
13 substances, such as PFOA and other PFAS chemicals, Plaintiff would not have  
14 purchased the product or would have paid significantly less for it.

## 15 **Defendant**

16           31. Defendant HexClad is a citizen of California, with its headquarters  
17 located at 500 S. Anderson Street, Los Angeles, California 90033. HexClad sells its  
18 products both online, including directly from its website,  
19 [www.hexcladcookware.com](http://www.hexcladcookware.com), and through online retailers like Amazon or Walmart.  
20 Defendant offers a variety of products, including individual pans and woks,  
21 cookware sets, and knives. HexClad markets its pans, woks and cookware as "non-  
22 toxic and "free from" certain chemicals including PFOA and PFAS.

## 23 **FACTUAL ALLEGATIONS**

### 24 **A. The Green Movement and Greenwashing**

25           32. In recent years, consumers have become significantly more aware and  
26

27 <sup>10</sup> <https://hexclad.com/products/memorial-day-bundle>.



1 sensitive to their impact on the environment and their own health and safety through  
2 the products they purchase and use. As a result, a movement has developed  
3 demanding consumer products that contain natural ingredients and are  
4 environmentally sound, i.e. that do not harm the environment through the product's  
5 ingredients, manufacture, use, or disposal. The term "Green" is commonly used to  
6 describe these products, and the environmental movement that led to them.

7 33. In response to consumers' desire for safe, clean, and natural products,  
8 many companies "greenwash" their products by deceptively claiming that their  
9 products are safer or cleaner than they are. Rather than creating the safe, clean, non-  
10 toxic products that consumers desire, many companies have chosen to "greenwash"  
11 their products through deceptive labeling, suggesting and outright stating that their  
12 products are safe, clean, or natural when, in fact, they contain ingredients that are  
13 harmful to humans, animals, and/or the environment, or are otherwise not clean  
14 products.

15 34. Greenwashing is the "activities by a company or an organization that  
16 are intended to make people think that it is concerned about the environment, even  
17 if its real business practice actually harms the environment." Oxford English  
18 Dictionary.

19 35. Environmentalist Jay Westerveld coined the term "greenwashing" in  
20 1986, in a critical essay inspired by the irony of the "save the towel" movement in  
21 hotels that had little impact beyond saving hotels money in laundry costs, and those  
22 same hotels were simultaneously tearing down forests for new properties. The idea  
23 emerged in a period when most consumers received their news primarily from  
24 television, radio, and print media, so they couldn't fact-check the way they could  
25 today via the internet.

26 36. Companies that have engaged in greenwashing on a wide scale have  
27 made headlines over the years. In the mid-'80s, for example, oil company Chevron  
28



1 commissioned a series of expensive television and print ads to broadcast its  
 2 environmental dedication. But while the now-infamous “People Do” campaign ran,  
 3 Chevron was actively violating the Clean Air Act and Clean Water Act, as well as  
 4 spilling oil into wildlife refuges.

5 37. Chevron was far from the only corporation making outrageous claims,  
 6 unfortunately. In 1991, chemical company DuPont announced its double-hulled oil  
 7 tankers with ads featuring marine animals prancing in chorus to Beethoven’s “Ode  
 8 to Joy.” It turned out the company was the largest corporate polluter in the U.S. that  
 9 year.

10 38. Unfortunately for consumers, false claims of environmental soundness  
 11 have grown along with the demand for green products. In a released study, the  
 12 environmental consulting group TerraChoice Environmental Marketing found that  
 13 98% of more than 2,000 products it surveyed in North America made false and  
 14 misleading environmental claims by committing one or more of what it classified as  
 15 the “Seven Sins of Greenwashing”<sup>11</sup>:

- 16 a. The Sin of the Hidden Trade-off – committed by suggesting a  
 17 product is “green” based on an unreasonably narrow set of  
 18 attributes without attention to other important environmental  
 19 issues;
- 20 b. The Sin of No Proof – committed by an environmental claim that  
 21 cannot be substantiated by easily accessible supporting  
 22 information or by a reliable third-party certification;
- 23 c. The Sin of Vagueness – committed by every claim that is so  
 24 poorly defined or broad that its real meaning is likely to be  
 25 misunderstood by the consumer;

26  
 27 <sup>11</sup> <http://sinsofgreenwashing.org/>.

- d. The Sin of Irrelevance – committed by making an environmental claim that may be truthful but is unimportant or unhelpful for consumers seeking environmentally preferable products;
- e. The Sin of Lesser of Two Evils – committed by claims that may be true within the product category but that risk distracting the consumer from the greater environmental impacts of the category as a whole;
- f. The Sin of Fibbing – committed by making environmental claims that are simply false; and
- g. The Sin of Worshipping False Labels – committed by a product that, through either words or images, gives the impression of third-party endorsement where no such endorsement actually exists or fake labels.<sup>12</sup>

39. Recent data shows that many fashion brands and textile retailers, particularly, are guilty of greenwashing and exaggerating their sustainability credentials without disclosing supporting evidence.<sup>13</sup>

40. To put it plainly, corporate good is in these days and corporations, like Defendant, will do whatever it takes, even in some cases participate in greenwashing or other forms of related deception to consumers, to appear environmentally conscious, safe, and clean. Recognizing this problem, the United States Federal Trade Commission (“FTC”) created the “Green Guides” to help companies avoid

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<sup>12</sup> Paul Des Marais, “Decoding 20 Common Green Packaging Symbols,” ZENPACK, Dec. 7, 2020, <https://www.zenpack.us/blog/decoding-20-common-green-packaging-symbols/> (Mar. 21, 2023).

<sup>13</sup> Fashion Transparency Index 2022 Edition, FASHION REVOLUTION, [https://issuu.com/fashionrevolution/docs/fti\\_2022](https://issuu.com/fashionrevolution/docs/fti_2022) (Mar. 21, 2023).

1 making misleading and deceptive claims.<sup>14</sup>

## 2 **B. FTC Regulation of Greenwashing and the Green Guides**

3 41. Section 5 of the FTC Act prohibits deceptive acts and practices in or  
4 affecting commerce. A representation, omission, or practice is deceptive if it is  
5 likely to mislead consumers acting reasonably under the circumstances and is  
6 material to consumers' decisions. See FTC Policy Statement on Deception, 103 FTC  
7 174 (1983).

8 42. In the context of environmental marketing claims, a reasonable basis  
9 often requires competent and reliable scientific evidence. Such evidence consists of  
10 tests, analyses, research, or studies that have been conducted and evaluated in an  
11 objective manner by qualified persons and are generally accepted in the profession  
12 to yield accurate and reliable results. Such evidence should be sufficient in quality  
13 and quantity based on standards generally accepted in the relevant scientific fields,  
14 when considered considering the entire body of relevant and reliable scientific  
15 evidence, to substantiate that each of the marketing claims is true.<sup>15</sup>

16 43. According to the FTC, the following general principles apply to  
17 environmental marketing claims.<sup>16</sup>

- 18 a. Qualifications and Disclosures: To prevent deceptive claims,  
19 qualifications and disclosures should be clear, prominent, and  
20 understandable. To make disclosures clear and prominent,  
21 marketers should use plain language and sufficiently large type,  
22 should place disclosures in close proximity to the qualified claim,

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23  
24 <sup>14</sup> See generally 16 C.F.R. § 260—Guide for the User of Environmental Marketing Claims.

25 <sup>15</sup> Part 260—Guides for the Use of Environmental Marketing Claims, FTC,  
26 <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-issues-revised-green-guides/greenguides.pdf>, (Mar. 21, 2023).

27 <sup>16</sup> 16 C.F.R. § 260.3.

and should avoid making inconsistent statements or using distracting elements that could undercut or contradict the disclosure.

b. Distinction Between Benefits of Product, Package, and Service:

Unless it is clear from the context, an environmental marketing claim should specify whether it refers to the product, the product's packaging, a service, or just to a portion of the product, package, or service. In general, if the environmental attribute applies to all but minor, incidental components of a product or package, the marketer need not qualify the claim to identify that fact. However, there may be exceptions to this general principle. For example, if a marketer makes an unqualified recyclable claim, and the presence of the incidental component significantly limits the ability to recycle the product, the claim would be deceptive.

- i. Example: A plastic package containing a new shower curtain is labeled "recyclable" without further elaboration. Because the context of the claim does not make clear whether it refers to the plastic package or the shower curtain, the claim is deceptive if any part of either the package or the curtain, other than minor, incidental components, cannot be recycled.

c. Overstatement of Environmental Attribute: An environmental marketing claim should not overstate, directly or by implication, an environmental attribute or benefit. Marketers should not state or imply environmental benefits if the benefits are negligible.

- i. Example: A trash bag is labeled "recyclable" without qualification. Because trash bags ordinarily are not separated from other trash at the landfill or incinerator for recycling, they are highly unlikely to be used again for any purpose. Even if the bag is technically capable of being recycled, the claim is deceptive since it asserts an environmental benefit where no meaningful benefit exists.

- 1           d.    Comparative Claims: Comparative environmental marketing  
2           claims should be clear to avoid consumer confusion about the  
3           comparison. Marketers should have substantiation for the  
4           comparison.
- 5           i.    Example: An advertiser notes that its glass bathroom tiles  
6           contain “20% more recycled content.” Depending on the  
7           context, the claim could be a comparison either to the  
8           advertiser’s immediately preceding product or to its  
9           competitors’ products. The advertiser should have  
10          substantiation for both interpretations. Otherwise, the  
11          advertiser should make the basis for comparison clear, for  
12          example, by saying “20% more recycled content than our  
13          previous bathroom tiles.”
- 14          e.    Certifications and Seals of Approval: It is deceptive to  
15          misrepresent, directly or by implication, that a product, package,  
16          or service has been endorsed or certified by an independent third  
17          party. A marketer’s use of an environmental certification or seal  
18          of approval likely conveys that the product offers a general  
19          environmental benefit (see § 260.4) if the certification or seal  
20          does not convey the basis for the certification or seal, either  
21          through the name or some other means.
- 22          i.    Example: An advertisement for paint features a “GreenLogo”  
23          seal and the statement “GreenLogo for Environmental  
24          Excellence.” This advertisement likely conveys that: (1) the  
25          GreenLogo seal is awarded by an independent, third-party  
26          certifier with appropriate expertise in evaluating the  
27          environmental attributes of paint; and (2) the product has far-  
28          reaching environmental benefits. If the paint manufacturer  
29          awarded the seal to its own product, and no independent, third-  
30          party certifier objectively evaluated the paint using  
31          independent standards, the claim would be deceptive.
- 32          f.    Biodegradable Claims: It is deceptive to misrepresent, directly or  
33          by implication, that a product or package is degradable,  
34          biodegradable, oxo-degradable, oxo-biodegradable, or

photodegradable. A marketer making an unqualified degradable claim should have competent and reliable scientific evidence that the entire item will completely break down and return to nature within a reasonably short period of time after customary disposal.

i. Example: A marketer advertises its trash bags using an unqualified “degradable” claim. The marketer relies on soil burial tests to show that the product will decompose in the presence of water and oxygen. Consumers, however, place trash bags into the solid waste stream, which customarily terminates in incineration facilities or landfills where they will not degrade within one year. The claim is, therefore, deceptive.

g. Free-Of Claims: It is deceptive to misrepresent, directly or by implication, that a product, package, or service is free of, or does not contain or use, a substance. A truthful claim that a product, package, or service is free of, or does not contain or use, a substance may nevertheless be deceptive if: (1) the product, package, or service contains or uses substances that pose the same or similar environmental risks as the substance that is not present; or (2) the substance has not been associated with the product category.<sup>17</sup>

i. Example: A package of t-shirts is labeled “Shirts made with a chlorine-free bleaching process.” The shirts, however, are bleached with a process that releases a reduced, but still significant, amount of the same harmful byproducts associated with chlorine bleaching. The claim overstates the product’s benefits because reasonable consumers likely would interpret it to mean that the product’s manufacture does not cause any of the environmental risks posed by chlorine bleaching.

h. Non-Toxic Claims: It is deceptive to misrepresent, directly or by implication, that a product, package, or service is non-toxic. A non-toxic claim likely conveys that a product, package, or

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<sup>17</sup> 16 C.F.R. § 260.9.

1 service is non-toxic both for humans and for the environment  
 2 generally. Therefore, marketers making non-toxic claims should  
 3 have competent and reliable scientific evidence that the product,  
 4 package, or service is non-toxic for humans and for the  
 5 environment or should clearly and prominently qualify their  
 6 claims to avoid deception.

7 i. Example: A marketer advertises a cleaning product as  
 8 “essentially non-toxic” and “practically non-toxic.” The  
 9 advertisement likely conveys that the product does not pose any  
 10 risk to humans or the environment, including household pets.  
 11 If the cleaning product poses no risk to humans but is toxic to  
 12 the environment, the claims would be deceptive.

13 i. Ozone-Safe Claims: It is deceptive to misrepresent, directly or  
 14 by implication, that a product, package, or service is safe for, or  
 15 friendly to, the ozone layer or the atmosphere.

16 i. An aerosol air freshener is labeled “ozone-friendly.” Some of  
 17 the product’s ingredients are volatile organic compounds  
 18 (VOCs) that may cause smog by contributing to ground-level  
 19 ozone formation. The claim likely conveys that the product is  
 20 safe for the atmosphere as a whole, and, therefore, is deceptive.

21 j. Recyclable Claims: It is deceptive to misrepresent, directly or by  
 22 implication, that a product or package is recyclable. A product  
 23 or package should not be marketed as recyclable unless it can be  
 24 collected, separated, or otherwise recovered from the waste  
 25 stream through an established recycling program for reuse or use  
 26 in manufacturing or assembling another item.

27 i. Example: A nationally marketed plastic yogurt container  
 28 displays the Resin Identification Code (RIC) (which consists of  
 a design of arrows in a triangular shape containing a number  
 in the center and an abbreviation identifying the component  
 plastic resin) on the front label of the container, in close  
 proximity to the product name and logo. This conspicuous use  
 of the RIC constitutes a recyclable claim. Unless recycling  
 facilities for this container are available to a substantial  
 majority of consumers or communities, the manufacturer



should qualify the claim to disclose the limited availability of recycling programs.

44. The Green Guides also provide additional examples of marketing claims to “provide the Commission’s views on how reasonable consumers likely interpret certain claims.”<sup>18</sup> The FTC provided the following relevant examples:<sup>19</sup>

- The brand name “Eco-friendly” likely conveys that the product has far reaching environmental benefits and may convey that the product has no negative environmental impact. Because it is highly unlikely that the marketer can substantiate these claims, the use of such a brand name is deceptive.
- A brand name like “Eco-safe” would be deceptive if, in the context of the product so named, it leads consumers to believe that the product has environmental benefits which cannot be substantiated by the manufacturer. The claim would not be deceptive if “Eco-Safe” were followed by clear and prominent qualifying language limiting the safety representation to a particular product attribute for which it could be substantiated, and provided that no other deceptive implications were created by the context.
- A product label contains an environmental seal, either in the form of a globe icon, or a globe icon with only the text “Earth Smart” around it. Either label is likely to convey to consumers that the product is environmentally superior to other products. If the manufacturer cannot substantiate this broad claim, the claim would be deceptive. The claims would not be deceptive if they were accompanied by clear and prominent qualifying language limiting the environmental superiority representation to the particular product attribute or attributes for which they could be substantiated, provided that no other deceptive implications were created by the context.
- A marketer states that its packaging is now “Greener than our previous packaging.” The packaging weighs 15% less than previous packaging, but it is not recyclable, nor has it been improved in any other material respect. The claim is deceptive because reasonable consumers likely would interpret “Greener” in this context to mean that other significant environmental aspects of the packaging also are improved over previous packaging.
- A marketer advertises a cleaning product as ‘essentially non-toxic’ and ‘practically non-toxic.’ The advertisement likely conveys that the product does not pose any risk to humans or the environment, including household pets. If the cleaning product poses no risks to humans but is toxic to the environment, the claims would be deceptive.

<sup>18</sup> 16 C.F.R. § 260.1(d).

<sup>19</sup> 16 C.F.R. § 260.1.

## 1 Consumers and Green Products

2 45. Consumers are regularly choosing more environmentally friendly  
3 products. In fact, some consumers are changing their buying behavior to reduce the  
4 impact of their consumption habits over the environment, choosing an environment-  
5 friendly consumption behavior, often called green consumption.<sup>20</sup>

6 46. Consumers and investors increasingly care about a business' positive  
7 impact and will make decisions according to brand perceptions. In a 2019 CSR  
8 Survey conducted by Aflac, 77% of consumers felt motivated to make purchasing  
9 decisions from companies committed to making the world a better place and 73% of  
10 investors viewed these efforts as contributors to return on investment, and, in turn,  
11 often look favorably on companies with conscious social and environmental impact.

12 47. In 2021, GreenPrint's Business of Sustainability Index, found that 64%  
13 of Gen X consumers would spend more on a product if it comes from a sustainable  
14 brand, and that figure jumps to 75% among millennials.

15 48. Today, consumers across all generations—from Baby Boomers to Gen  
16 Z—are willing to spend more for sustainable products, and the percentages of  
17 consumers in those generations willing to pay more for sustainable products is  
18 growing. Now, at least 90% of Gen X consumers said that they would be willing to  
19 spend an extra 10% or more for sustainable products.<sup>21</sup>

20 49. An international study of 20,000 customers by grocery brand

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21  
22 <sup>20</sup> "Greenwashing effect, attitudes, and beliefs in green consumption," EMERALD  
23 INSIGHT, Mar. 12, 2019,  
24 <https://www.emerald.com/insight/content/doi/10.1108/RAUSP-08-2018-0070/full/html>, (Mar. 21, 2023).

25 <sup>21</sup> Greg Petro, "Consumers Demand Sustainable Products and Shopping Formats,"  
26 FORBES, Mar. 11, 2022,  
27 <https://www.forbes.com/sites/gregpetro/2022/03/11/consumers-demand-sustainable-products-and-shopping-formats/?sh=551188856a06>, (Mar. 21, 2023).

giant Unilever identified one in three (33%) people were choosing to buy from brands they believe are doing environmental good.<sup>22</sup>

50. A desire to help the environment is the primary reason consumers purchase sustainable products and brands. Almost 30% say they want to improve the environment, with 23% wishing to reduce production waste, 22% wishing to reduce their carbon footprint, and 17% concerned with animal welfare.<sup>23</sup> Consumers care about the environment and are purchasing environmentally sound products to support those interests.

51. Consumers are also concerned about safety and an inclination towards safer products is guiding consumer choices. A recent survey found that “[w]hen asked to choose the top three factors they prioritize when deciding between products, the majority of consumers surveyed said they prioritize the health/safety of products (71%) and products free from certain toxic chemicals (70%).”<sup>24</sup>

52. Green labels and product marketing impact consumer buying decisions. Marketing and labels allow consumers to make comparisons among products and services in the category and decide their preference.<sup>25</sup> Indeed, labels make it easier for consumers to identify green products when they are shopping, reducing consumers’ purchase time. Consumers consider the information related to the environmental attributes of products that companies, like Defendant, put on their

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<sup>22</sup> “Climate explained: are consumers willing to pay more for climate-friendly products?” THE CONVERSATION, Sept. 29, 2020, <https://theconversation.com/climate-explained-are-consumers-willing-to-pay-more-for-climate-friendly-products-146757>, (Mar. 21, 2023).

<sup>23</sup> *Id.*

<sup>24</sup> Made Safe, “What Shoppers Want: Safe & Healthy Products,” <https://www.madesafe.org/wp-content/uploads/2017/07/What-Shoppers-Want.pdf> (Mar. 21, 2023).

<sup>25</sup> “Marketing & Sustainability,” MAJOR SUSTAINABILITY, PENN STATE, <https://majorsustainability.smeal.psu.edu/green-labelling/>, (Mar. 21, 2023).

1 label and use that information to make a purchase decision.<sup>26</sup> Thus, labels and green  
2 marketing tactics, like those used by Defendant, impact consumer buying behavior.

3 53. For these reasons, companies like Defendant have expanded their  
4 marketing efforts to attract consumers into purchasing cookware marked “non-  
5 toxic” and “free from” various chemicals.

### 6 **C. Poly-fluoroalkyl Substances (“PFAS”) and Cookware**

7 54. PFAS are a series of chemicals that studies have linked to harmful side  
8 effects.

9 55. PFAS chemicals are a class of more than 4,700 man-made chemical  
10 compounds that have a characteristic per fluorinated carbon monitory that confers  
11 hydrophobic chemical properties and environmental persistence. PFAS are known  
12 as “forever chemicals” because they do not easily break down in the human body or  
13 the environment, and thus, persist over long periods of time. Their characteristic  
14 benefits—including persistence and hydrophobic properties—propelled their use in  
15 thousands of products, including personal care products, fabrics, carpets, cookware,  
16 food packaging, and other commercial uses.<sup>27</sup>

17 56. PFAS chemicals are dangerous to humans. Exposure to PFAS  
18 chemicals is associated with an elevated risk for certain cancers, liver and kidney  
19 failures, immunological problems, and reproductive and developmental harm.  
20 Indeed, “[M]eta-analyses point to a high toxicity and potentially bioaccumulative

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21  
22 <sup>26</sup> “The Effect of Green Marketing Strategy on Purchasing Decisions: A Review of  
23 Previous Research,” INTERNATIONAL JOURNAL OF SCIENTIFIC & TECHNOLOGY  
24 RESEARCH VOLUME 8, ISSUE 12, Dec. 2019, <https://www.ijstr.org/final-print/dec2019/The-Effect-Of-Green-Marketing-Strategy-On-Purchasing-Decisions-A-Review-Of-Previous-Research.pdf>, (Mar. 21, 2023).

25 <sup>27</sup> Heather D. Whitehead, et al., “Fluorinated Compounds in North American  
26 Cosmetics,” ENVIRON. SCI. & TECHNOL. LETT. Jun. 15, 2021,  
27 [https://pubs.acs.org/doi/suppl/10.1021/acs.estlett.1c00240/suppl\\_file/ez1c00240\\_si\\_001.pdf](https://pubs.acs.org/doi/suppl/10.1021/acs.estlett.1c00240/suppl_file/ez1c00240_si_001.pdf), (Mar. 21, 2023).

properties of some metabolites of” PFAS chemicals.<sup>28</sup> All PFAS contain carbon-fluorine bonds—one of the strongest in nature—making PFAS very persistent in the environment and in human bodies.<sup>29</sup>

57. A recent New York Times article discussed the effect of PFAS exposure to pregnant women and babies, explaining the effects of PFAS on metabolism and immunity:<sup>30</sup>

[s]cientists think these widely used industrial chemicals may harm pregnant women and their developing babies by meddling with gene regulators and hormones that control two of the body’s most critical functions: metabolism and immunity.

‘And while we understandably focus on highly contaminated communities,’ Dr. Lanphear said, ‘we can predict based upon all the other evidence, that there’s unlikely to be any safe level.’

58. The Center for Disease Control’s Agency for Toxic Substances and Disease Registry has recognized that exposure to high levels of PFAS may impact the immune system and reduce antibody responses to vaccines.<sup>31</sup>

59. “The Madrid Statement,” a scientific consensus regarding the persistence and potential for harm of PFAS substances issued by the Green Science

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<sup>28</sup> *Id.*

<sup>29</sup> Jessian Choy, “My Menstrual Underwear has Toxic Chemicals in It,” SIERRA, Jan. 7, 2020, <https://www.sierraclub.org/sierra/ask-ms-green/my-menstrual-underwear-has-toxic-chemicals-it>, (Mar. 21, 2023).

<sup>30</sup> “These Everyday Toxins May be Hurting Pregnant Women and Their Babies,” THE NEW YORK TIMES, <https://www.nytimes.com/2020/09/23/parenting/pregnancy/pfas-toxins-chemicals.html>, (Mar. 21, 2023).

<sup>31</sup> “What are the health effects of PFAS?” AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY, <https://www.atsdr.cdc.gov/pfas/health-effects/index.html>, (Mar. 21, 2023).

1 Policy Institute and signed by more than 250 scientists from 38 countries,  
 2 recommended the following actions in order to mitigate future harm: (1)  
 3 discontinuing use of PFAS where not essential or safer alternatives exist; (2) labeling  
 4 products containing PFAS; and (3) encouraging retailers and individual consumers  
 5 to avoid products containing or manufactured using PFAS whenever possible.<sup>32</sup>

6 60. The current Environmental Protection Agency's health advisory for  
 7 PFAS limit PFAS for safe consumption to just 70 nanograms per liter.<sup>33</sup> PFAS can  
 8 be harmful at a very, very low concentration.

9 61. This is especially true when PFAS are used in a manner that makes  
 10 them absorbable or inhalable by humans, such as through cookware.

11 62. That PFAS are harmful to the human body is beyond dispute. In a 2019  
 12 study, for example, the U.S. Department of Health and Human Services' National  
 13 Toxicology Program found that PFAS have adverse effects on human organ systems,  
 14 with the greatest impact seen in the liver and thyroid hormone.<sup>34</sup>

15 63. The Centers for Disease Control's Agency for Toxic Substances and  
 16 Disease Registry has also recognized that exposure to levels of PFAS may impact  
 17 the immune system and reduce antibody responses to vaccines.<sup>35</sup>

18 64. In total, this research demonstrates that the risk of severe health  
 19 complications arising from exposure to PFAS is both credible and substantial.

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21 <sup>32</sup> "The Madrid Statement," GREEN SCIENCE POLICY INSTITUTE,  
 22 <https://greensciencepolicy.org/our-work/science-policy/madrid-statement/>, (Mar.  
 21, 2023).

23 <sup>33</sup> "High Levels of PFAS Found in Anti-Fogging Sprays and Cloths," DUKE  
 24 UNIVERSITY, NICHOLAS SCHOOL OF THE ENVIRONMENT, Jan. 5, 2022,  
 25 [https://nicholas.duke.edu/news/high-levels-pfas-foundanti-fogging-sprays-and-](https://nicholas.duke.edu/news/high-levels-pfas-foundanti-fogging-sprays-and-cloths)  
[cloths](https://nicholas.duke.edu/news/high-levels-pfas-foundanti-fogging-sprays-and-cloths), (Mar. 21, 2023).

26 <sup>34</sup> "PFAS Explained," ENVIRONMENTAL PROTECTION AGENCY,  
 27 <https://www.epa.gov/pfas/pfas-explained>, (Mar. 21, 2023).

28 <sup>35</sup> See supra, fn. 39, <https://www.atsdr.cdc.gov/pfas/health-effects/index.html>

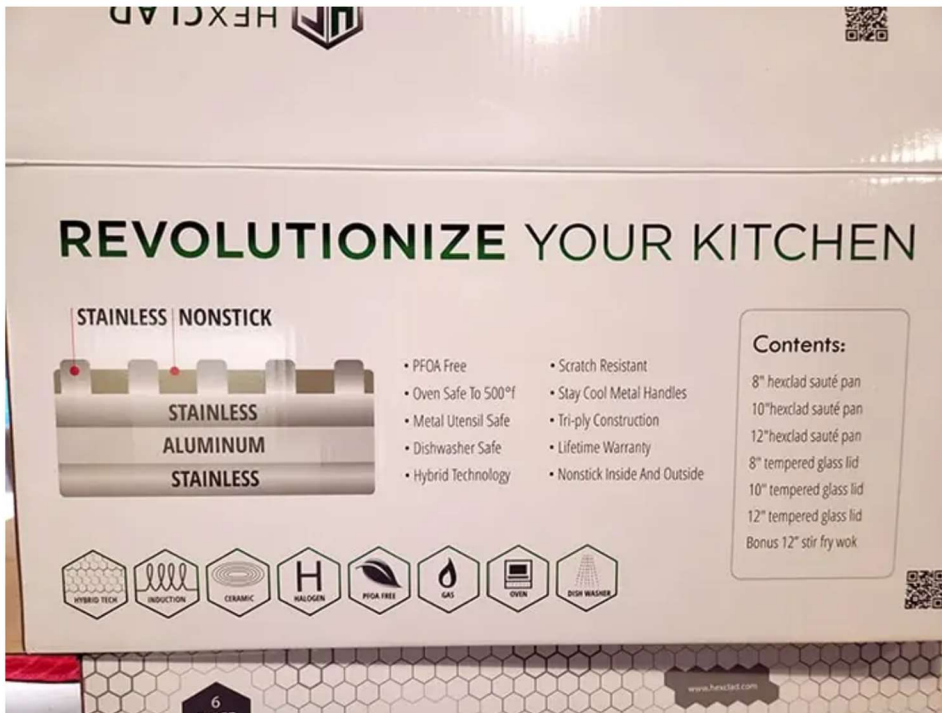


65. Additionally, PFAS pose a risk to the environment, where once introduced, can quickly spread around the globe through multiple pathways.<sup>36</sup>

#### D. HexClad's Business And "Green" Representations

66. Defendant makes several representations to consumers claiming its pans are both PFOA free and free from PFAS.

67. Defendant represents on its packaging that the pans are "PFOA Free".



HexClad Cookware box

37

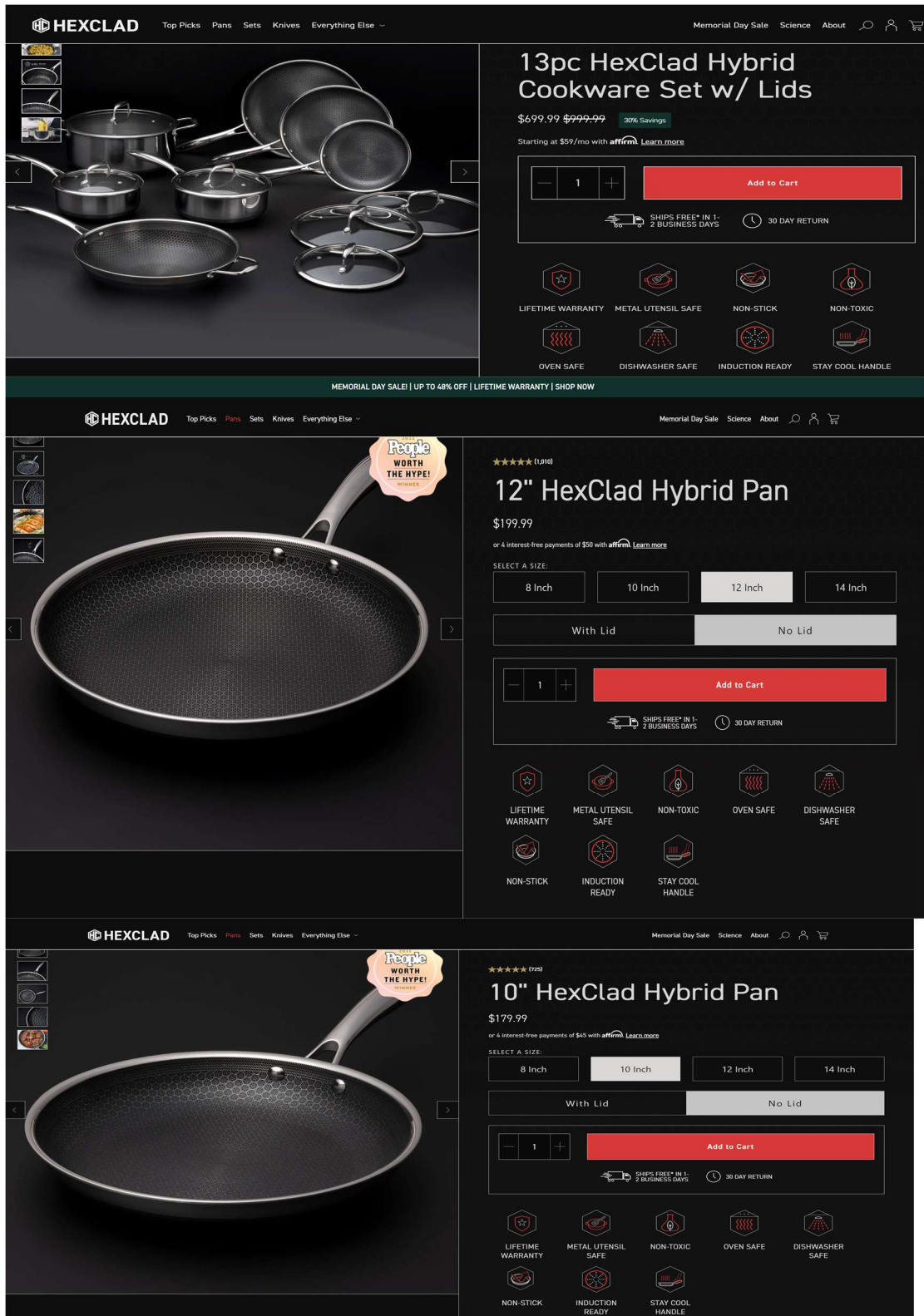
68. Defendant advertises and sells HexClad Cookware online via its own website and through third party websites like Amazon and Walmart. Below are some examples of the HexClad Cookware for sale.

<sup>36</sup> "What are PFAS?" PFAS FREE, <https://www.pfasfree.org.uk/about-pfas> (Mar. 21, 2023).

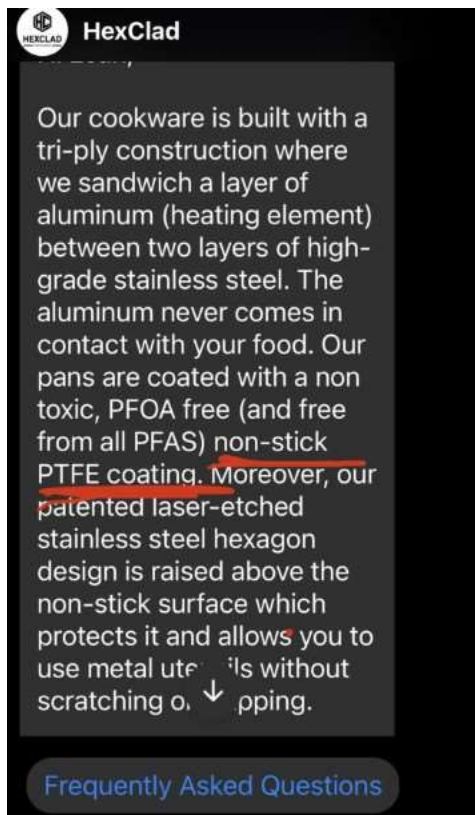
<sup>37</sup> <https://moderncastle.com/hexclad-review/> (last visited June 12, 2023).



## 69. HexClad's Website:



70. On the HexClad website, as demonstrated above, HexClad classifies its pans as non-toxic. HexClad also makes the following representations on the Frequently Asked Questions page of the HexClad website.



HexClad Commercial

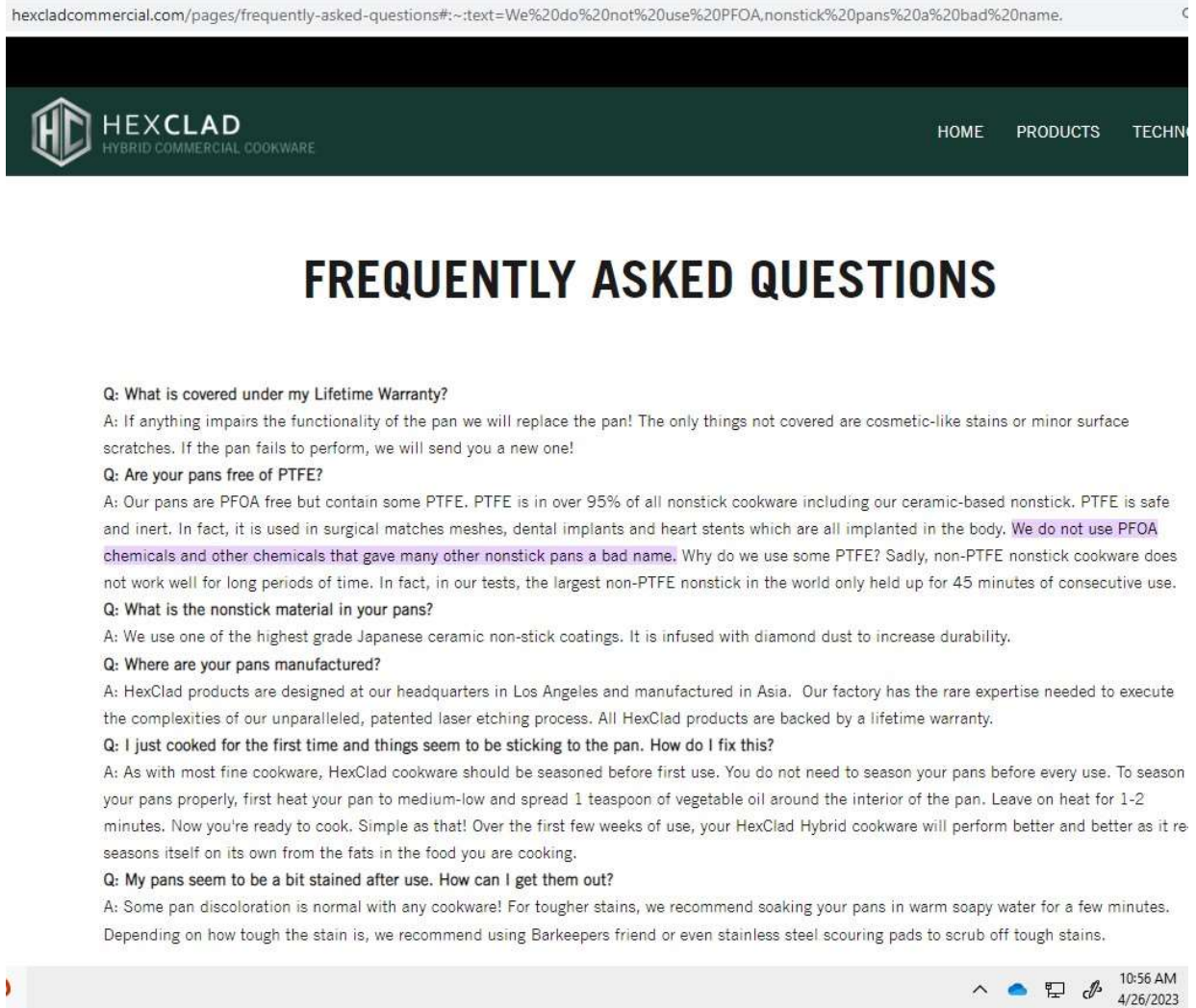
<https://hexcladcommercial.com> > pages > frequently-a...

## Frequently Asked Questions

A: Our pans are **PFOA free** but contain some PTFE. PTFE is in over 95% of all nonstick cookware including our ceramic-based nonstick. PTFE is safe and inert.



11:00 AM  
4/26/2023



71. HexClad's response to the Frequently Asked Questions represent that the HexClad Cookware is free from PFOAs and all PFAS. HexClad admits that its cookware contain PFTE, but claims that PFTE is safe.

72. Amazon sells HexClad cookware and below is a screen shot from Amazon's website.

Home &amp; Kitchen › Kitchen &amp; Dining › Cookware › Pots &amp; Pans › Woks &amp; Stir-Fry Pans



Roll over image to zoom in



6 VIDEOS

## HexClad 12 Inch Hybrid Stainless Steel Wok with Stay Cool Handle, Dishwasher and Oven Safe, Works with Induction, Ceramic, Non-Stick, Electric, and Gas Cooktops

Visit the HexClad Store

4.6 ★★★★★ 958 ratings

-22% \$139<sup>99</sup>

List Price: \$179.00

FREE Returns

Get \$60 off instantly: Pay \$79.99 upon approval for Amazon Visa. No annual fee.

Available at a lower price from other sellers that may not offer free Prime shipping.

<b>Brand</b>	HexClad
<b>Material</b>	Stainless Steel
<b>Special Feature</b>	Gas Stovetop Compatible, Electric Stovetop Compatible, Induction Stovetop Compatible
<b>Color</b>	Silver
<b>Capacity</b>	1 Quarts

### About this item

- HexClad Cookware combines high-quality stainless steel with a laser-etched non-stick surface using our patented hexagonal design to provide the ideal hybrid cooking performance. Utilizing a tri-ply construction, our cookware has a layer of aluminum encapsulated between two layers of stainless steel for perfect heat distribution.
- The HexClad 12 inch Wok is completely non-toxic and PFOA-free. The cooking surface is a combination of ceramic, diamond dust, and stainless steel for the best balance of utility and performance.
- HexClad Cookware is ready for any kitchen, thanks to compatibility with all types of cooktops including induction, gas, electric, and ceramic, as well as being oven-safe up to 500 degrees Fahrenheit. Please note all HexClad Lids are only safe up to 400 degrees Fahrenheit.
- Keeping your HexClad Cookware looking clean is a breeze; the surface is metal-utensil resistant to avoid scratches and can be cleaned with steel wool pads and scouring. In addition, all HexClad Cookware is dishwasher-friendly (though hand-washing is highly recommended).
- Your purchase includes one HexClad 12 inch Wok. The 12 inch Wok measures approximately 11.8 inches at its upper diameter, 5.9 inches at its bottom diameter, 3.5 inches in height, and 2 kilograms in weight.

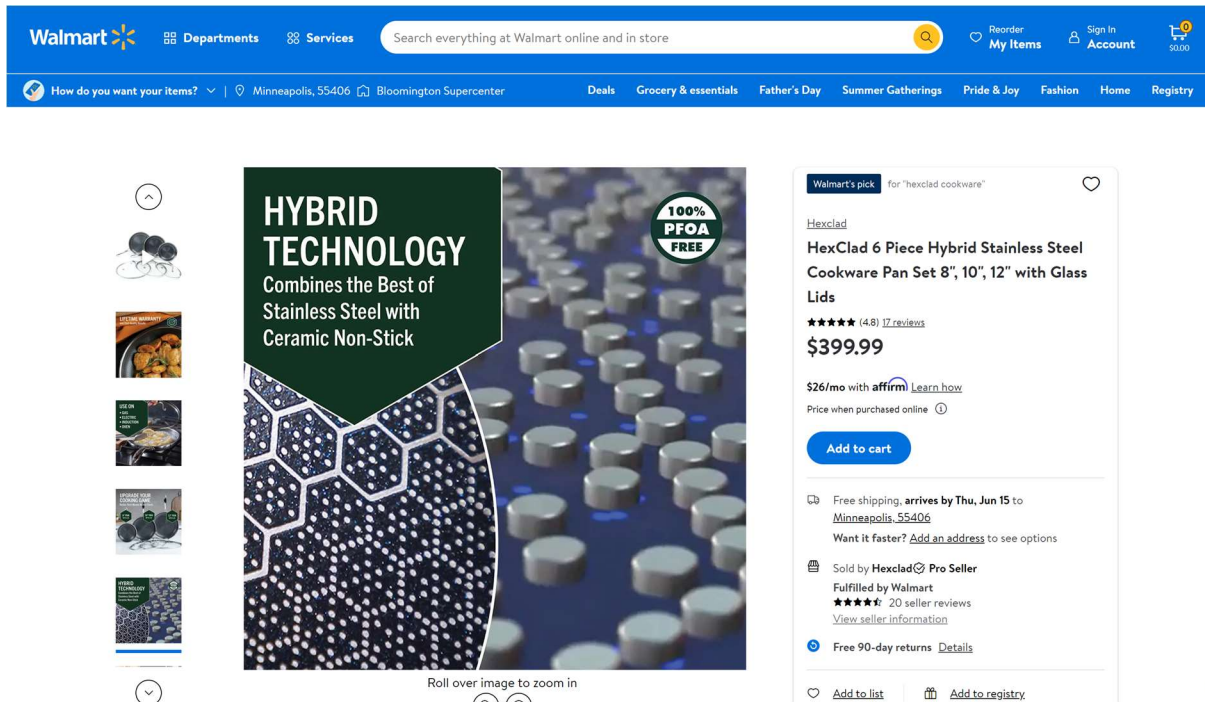
38

<sup>38</sup> [https://www.amazon.com/HexClad-Hybrid-Stainless-Stay-Cool-Handle/dp/B07W99LJBZ/ref=asc\\_df\\_B07W99LJBZ/?tag=hyprod-20&linkCode=df0&hvadid=366430912073&hvpos=&hvnetw=g&hvrnd=6952101780741136727&hvpone=&hvptwo=&hvqmt=&hvdev=c&hvdvcmdl=&hvlocint=&hvlocphy=9026906&hvtargid=pla-811760919119&pssc=1&tag=&ref=&adgrpid=79166366634&hvpone=&hvptwo=&hvadid=366430912073&hvpos=&hvnetw=g&hvrnd=6952101780741136727&hvqmt=&hvdev=c&hvdvcmdl=&hvlocint=&hvlocphy=9026906&hvtargid=pla-811760919119](https://www.amazon.com/HexClad-Hybrid-Stainless-Stay-Cool-Handle/dp/B07W99LJBZ/ref=asc_df_B07W99LJBZ/?tag=hyprod-20&linkCode=df0&hvadid=366430912073&hvpos=&hvnetw=g&hvrnd=6952101780741136727&hvpone=&hvptwo=&hvqmt=&hvdev=c&hvdvcmdl=&hvlocint=&hvlocphy=9026906&hvtargid=pla-811760919119&pssc=1&tag=&ref=&adgrpid=79166366634&hvpone=&hvptwo=&hvadid=366430912073&hvpos=&hvnetw=g&hvrnd=6952101780741136727&hvqmt=&hvdev=c&hvdvcmdl=&hvlocint=&hvlocphy=9026906&hvtargid=pla-811760919119) (last visited June 2, 2023).



73. The Amazon screenshot above shows that Defendant is representing the HexClad 12-inch Wok as completely non-toxic and PFOA-free.

74. Walmart sells HexClad Cookware and below is a screen shot from Walmart's website:



39

<sup>39</sup> <https://www.walmart.com/ip/HexClad-6-Piece-Hybrid-Stainless-Steel-Cookware-Pan-Set-8-10-12-with-Glass-Lids/1861296495?athbdg=L1200&from=/search> (last visited June 12, 2023).

75. The Walmart screenshot above shows that Defendant is representing HexClad Cookware as 100% PFOA Free.

76. In 2023, Defendant also made several representations about its products being free from PFOA and PFAS, including the following social media posts, as well:



Debbie Taccariello DeMadaler Flannery  
I WANT this pan! Does it have PFAS in it??? 🙌

3w



Author

HexClad

Great question! Our cookware is free from harmful PFOA/C8 (and ALL PFAS) chemicals. Our high-grade nonstick coating has been tested by governments all over the world and is completely safe for use!

3w



**arthur fleiss** @arthurfleiss · Mar 22

What makes them hybrid?



1



2



2,001



**HexClad** 🌟 @hexclad · Mar 23

Our pans are coated with a non toxic, PFOA free (ree from all PFAS) non-stick coating. Moreover, our patented laser\-etched stainless steel hexagon design is raised above the non-stick surface which protects it and allows you to use metal utensils without scratching or chipping.



4



1,890



**IfNotNowWhen** @PurePatriotDNA · Apr 8

Do they cool better on gas or electric?

Does the buyer need to worry about getting toxic poisoning - as in aluminum-if that's toxic?

Are they heavy - as in a let's say 60yr old woman, making a pot of pasta and needs to empty into sink?



2



1



518



**HexClad** 🌟 @hexclad · Apr 9

Hi! They function in the same way for both gas and electric.

Our cookware is built with a tri-ply construction where we sandwich a layer of aluminum (heating element) between two layers of high-grade stainless steel. The aluminum never comes in contact with your food.



1



2



241



**Marcus Orealist** @JoeDeo5 · Apr 10

what is the nonstick coating? nobody wants to answer this, I asked google.



1



24



**HexClad** 🌟 @hexclad · Apr 10

Our cookware is built with a layer of aluminum (heating element) between 2 layers of high-grade stainless steel. The aluminum never comes in contact with your food. Our pans are coated with a non toxic, PFOA free (and free from all PFAS) non-stick coating.



1



1



44



**Marcus Orealist** @JoeDeo5 · Apr 10

but you won't tell me the non-stick contents very suspicious.



1



11



Just now Like Reply





Alisson Hajasz

HexClad do your products have PFAS in them?

3w



Author

HexClad

Great question! Our cookware is free from harmful PFOA/C8 (and ALL PFAS) chemicals. Our high-grade nonstick coating has been tested by governments all over the world and is completely safe for use!

3w



77. Additionally, HexClad makes the following representations on the questions and answers section on Amazon for the HexClad Cookware.

### Looking for specific info?

Search in reviews, Q&A...

### Customer questions & answers

3  
votes

**Question:** Are the materials non-toxic?

**Answer:** Google: Although in its polymeric form, PTFE is considered to be non-toxic and physiologically inert, with the rise in temperature greater than 260 °C, and PTFE resin produces polymer fumes into the working environment. With further increase in temperature to 350 °C, the fumes can cause polymer fume fever in exposed workers.

By Galina G. on August 16, 2022

Our non-stick is non-toxic and completely safe, it does not contain any PFOA or PFAS, cadmium, or lead. It does contain PTFE which is widely used in medical settings including permanent and temporary medical devices implanted in the human body, and is thus completely safe.

By Hexclad Hybrid Cookware SELLER on October 4, 2021

78. The above figure from Amazon's Customer Questions and Answers includes a response from HexClad in which HexClad represents its cookware does

<sup>40</sup> [https://www.amazon.com/HexClad-Hybrid-Stainless-Frying-Stay-Cool/dp/B07WLQTCRH/ref=sr\\_1\\_2?crd=4TQV3X2STDC5&keywords=HexClad%2B10-inch%2BHybrid%2BPan&qid=1684939790&sprefix=hexclad%2B10-inch%2Bhybrid%2Bpan%2Caps%2C102&sr=8-2&ufe=app\\_do%3Aamzn1.fos.f5122f16-c3e8-4386-bf32-63e904010ad0&th=1](https://www.amazon.com/HexClad-Hybrid-Stainless-Frying-Stay-Cool/dp/B07WLQTCRH/ref=sr_1_2?crd=4TQV3X2STDC5&keywords=HexClad%2B10-inch%2BHybrid%2BPan&qid=1684939790&sprefix=hexclad%2B10-inch%2Bhybrid%2Bpan%2Caps%2C102&sr=8-2&ufe=app_do%3Aamzn1.fos.f5122f16-c3e8-4386-bf32-63e904010ad0&th=1)  
(last visited May 24, 2023).

not contain any PFOA or PFAS and also representing PTFE is used in medical settings, without disclosing that in medical settings the PTFE would not be heated to high temperature like it is in HexClad Cookware. Heating PTFE to high temperatures, such as temperatures needed to cook steak, may change the composition of the chemical and may increase its hazard.<sup>41</sup> These representations that Defendant makes to Amazon customers are misleading to consumers, including Plaintiffs, and consumers have been impacted and damaged by Defendant's non-toxic and "free from" claims about the HexClad Cookware.

79. Many of the claims Defendant makes about its cookware are—at best—misleading. For example, HexClad claims that its cookware is "free from harmful PFOA/C8 (and all PFAS) chemicals. Yet, the non-stick coating is made with PTFE, a known PFAS which likely has measurable amounts of PFOA in the PTFE coating, as well.

### CLASS ALLEGATIONS

80. Plaintiffs bring this class action pursuant to Federal Rule of Civil Procedure 23 individually and on behalf of all others similar situated, as representative of the following Nationwide Class:

#### **Nationwide Class:**

All citizens of the United States who purchased HexClad Cookware.

81. Excluded from the Class are Defendant; its officers, directors, and employees of Defendant; any entity in which Defendant has a controlling interest in, is a parent or subsidiary of, or which is otherwise controlled by Defendant; and

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<sup>41</sup> *The Problem with Teflon and Other Non-Stick Pots and Pans*, LEAFSCORE, <https://www.leafscore.com/eco-friendly-kitchen-products/the-problem-with-teflon-and-other-non-stick-pots-and-pans/#:~:text=PTFE%20starts%20to%20dissociate%20at,be%20released%20into%20the%20air>. (last visited June 20, 2023).

1 Defendant's affiliates, legal representatives, attorneys, heirs, predecessors,  
2 successors, and assignees. Also excluded are the Judges and Court personnel in this  
3 case and any members of their immediate families.

4 82. Plaintiffs reserve the right to modify and/or amend the Class definition,  
5 including but not limited to creating additional subclasses, as necessary.

6 83. All members of the proposed Class are readily identifiable through  
7 Defendant's records.

8 84. **Numerosity.** The members of the Class are so numerous that joinder  
9 of all members of the Class is impracticable. Plaintiff is informed and believes that  
10 the proposed Class includes millions of people. The precise number of Class  
11 members is unknown to Plaintiff but may be ascertained from Defendant's records.

12 85. **Commonality and Predominance.** This action involves common  
13 questions of law and fact to the Plaintiff and Class members, which predominate  
14 over any questions only affecting individual Class members. These common legal  
15 and factual questions include, without limitation:

- 16 a. Whether Defendant engaged in unlawful, unfair, or deceptive  
17 business practices by advertising and selling the HexClad  
18 Cookware;
- 19 b. Whether Defendant's conduct of advertising and selling the  
20 HexClad Cookware as non-toxic and free from certain chemicals  
21 when they are not constitutes an unfair method of competition,  
22 or unfair or deceptive act or practice in violation of various  
23 consumer protection laws and the warranties related to the  
24 products;
- 25 c. Whether Defendant used deceptive representations and  
26 omissions in connection with the sale of the HexClad Cookware  
27 in violation of various consumer protection laws and the  
28

1 warranties related to the products;

2 d. Whether Defendant represented the HexClad Cookware has  
3 characteristics or quantities that they do not have in violation of  
4 various consumer protection laws and the warranties related to  
5 the products;

6 e. Whether Defendant advertised the HexClad Cookware with the  
7 intent not to sell it as advertised in violation of various consumer  
8 protection laws and the warranties related to the products;

9 f. Whether Defendant's labeling and advertising of the HexClad  
10 Cookware is untrue or misleading in violation of various  
11 consumer protection laws and the warranties related to the  
12 products;

13 g. Whether Defendant knew or by the exercise of reasonable care  
14 should have known its labeling and advertising was and is untrue  
15 or misleading in violation of various consumer protection laws  
16 and the warranties related to the products;

17 h. Whether Plaintiff and the Class purchased HexClad Cookware  
18 they would not have purchased or paid more money for the  
19 HexClad Cookware than they would have had Defendant not  
20 engaged in the misrepresentations and omissions described  
21 herein;

22 i. Whether Defendant's conduct constitutes breach of express  
23 warranty;

24 j. Whether Plaintiff and the Class are entitled to equitable and/or  
25 injunctive relief; and

26 k. Whether Defendant was unjustly enriched by its unlawful  
27 conduct.  
28

87. **Adequacy.** Plaintiff will fairly and adequately represent and protect the interest of the members of the Class and has retained counsel experienced in complex consumer class action litigation and intend to prosecute this action vigorously. Plaintiff has no adverse or antagonistic interests to those of the Class.

## CAUSES OF ACTION

89. Plaintiffs reassert the allegations set forth previously and incorporate such allegations by reference herein.

1 Defendant on behalf of the Nationwide Class.

2 91. Express warranties by sellers of consumer goods are created when an  
3 affirmation of fact or promise is made by the seller to the buyer, which relates to the  
4 goods and becomes the basis of the bargain. Such warranties can also be created  
5 based upon descriptions of the goods that are made as part of the basis of the bargain  
6 that the goods shall conform to the description.

7 92. Each of the Plaintiffs formed a contract with Defendant at the time they  
8 purchased the HexClad products. The terms of that contract include the claims and  
9 affirmations of fact that Defendant made on the HexClad product's packaging and  
10 through marketing and advertising, including, but not limited to, claims that the  
11 products are "non-toxic," "metal-utensil safe," and other safety claims described  
12 above.

13 93. The marketing and advertising constitute express warranties and  
14 became a part of the basis of the bargain, and they are part of the standardized  
15 contracts between Plaintiffs and Class Members on the one hand, and Defendant, on  
16 the other.

17 94. In addition, or in the alternative, to the formation of an express contract,  
18 Defendant made each of their above-described representations, including the "non-  
19 toxic" and other safety claims described above, to induce Plaintiffs and Class  
20 Members to rely on such representations.

21 95. Defendant's claims were material, and Plaintiffs and Nationwide Class  
22 Members did rely and were reasonable in relying upon such representations in  
23 making their purchases of the HexClad cookware products.

24 96. Defendant has breached its express warranties about the HexClad  
25 cookware products because the representations set forth herein, including the "non-  
26 toxic" and other safety claims described above, are false and misleading.

27 97. Defendant failed to ensure that the material representations it made—  
28

1 and continues to make—to consumers were true. As a result of this systemic failure  
2 of oversight to ensure the truthfulness of the representations of the product label and  
3 relevant marketing and advertising, consumers purchased the HexClad cookware  
4 products from a company that fails to disclose or otherwise conceals that its products  
5 contain potentially hazardous chemicals, such as PFAS and traces of PFOA in the  
6 PFTE non-stick coating.

7 98. Defendant cannot make the claims that its HexClad cookware products  
8 are “non-toxic” and/or “PFOA-free” when it utilizes PFAS chemicals, such as PTFE,  
9 in the manufacturing of its HexClad cookware. Defendant cannot verify whether its  
10 “non-toxic” claims are accurate, nor did Defendant verify these claims through  
11 adequate oversight. Accordingly, Defendant convinced consumers to purchase the  
12 HexClad cookware products and ultimately charged consumers a price premium for  
13 express—but empty—promises.

14 99. Defendant breached its express warranties about the HexClad cookware  
15 because the representations as set forth herein were false and misleading.

16 100. Plaintiffs and Nationwide Class Members expected and would have  
17 been reasonable in expecting that Defendant ensure the statements on the HexClad  
18 label and the relevant marketing and advertising for the product were truthful  
19 regarding its “non-toxic” and other safety claims. However, Plaintiffs and  
20 Nationwide Class Members have not received the benefit of their bargain, as it has  
21 been discovered that Defendant’s “non-toxic” and other safety claims are false and  
22 misleading.

23 101. As a result of Defendant’s breach of its express warranties, Plaintiffs  
24 and the Nationwide Class Members were damaged in an amount to be proven at trial.

25 102. Plaintiffs, on behalf of themselves and Class Members, pray for relief  
26 as set forth below.



**SECOND CLAIM FOR RELIEF**  
**Negligent Misrepresentation**

103. Plaintiffs reassert the allegations set forth previously and incorporate such allegations by reference herein.

104. Defendant represented to Plaintiffs and the Class Members that its HexClad cookware products were “non-toxic,” “metal-utensil safe,” free of PFOA and all PFAS, and other safety claims outlined above.

105. At the time Defendant made these representations, it knew or should have known that these representations were false, misleading to consumers, or otherwise made without knowledge of their truth or veracity.

106. At a minimum, Defendant negligently misrepresented and/or negligently omitted material facts about the HexClad cookware.

107. The negligent misrepresentations and omissions Defendant made, upon which Plaintiffs and the Class Members reasonably and justifiably relied, were intended to induce and actually did induce Plaintiffs and the Class Members to purchase the HexClad cookware.

108. Plaintiffs and the Class Members would not have purchased the HexClad cookware or would have purchased the HexClad cookware under different terms, if the true facts had been known.

109. Defendant’s negligent actions caused harm to Plaintiffs and the Class Members, who are entitled to damages and other legal and equitable relief as a result.

**THIRD CLAIM FOR RELIEF**  
**Violation of the California Consumer Legal Remedies Act**  
**California Civil Code § 1750, *et seq.***

110. Plaintiffs reassert the allegations set forth previously and incorporate such allegations by reference herein.

111. This cause of action is brought pursuant to the California Consumers Legal Remedies Act, California Civil Code § 1750, *et seq.* (“CLRA”), by Plaintiffs on behalf of the Nationwide Class.

1           112. Defendant’s actions, representations, omissions, and conduct have  
2 violated, and continue to violate the CLRA because they extend to transactions that  
3 are intended to result, or which have resulted, in the sale of goods to consumers.

4           113. Plaintiffs and the other members of the class are “consumers” as that  
5 term is defined by the CLRA.<sup>42</sup>

6           114. The products that Plaintiffs and similarly situated members of the class  
7 purchased are “goods” within the meaning of the CLRA.<sup>43</sup>

8           115. By engaging in the actions, representations, and conduct set forth in this  
9 Class Action Complaint, as described above, Defendant has violated, and continues  
10 to violate §§ 1770(a)(4), 1770(a)(5), 1770(a)(7), and 1770(a)(9) of the CLRA. In  
11 violation of California Civil Code § 1770(a)(4), Defendant used deceptive  
12 representations in connection with goods. In violation of California Civil Code §  
13 1770(a)(5), Defendant represented that goods have approval, characteristics, uses,  
14 benefits, and qualities that they do not have. In violation of California Civil Code §  
15 1770(a)(7), Defendant’s acts and practices constitute improper representations that  
16 the goods and/or services it sells are of a particular standard, quality, or grade, when  
17 they are of another. In violation of California Civil Code § 1770(a)(9), Defendant  
18 advertised goods with intent not to sell them as advertised.

19           116. Specifically, Defendant’s acts and practices led consumers to believe  
20 that the HexClad cookware products were, variously and without limitation, “non-  
21 toxic,” “metal-utensil safe,” and “PFOA-free,” when in fact, the products contain a  
22 PTFE chemical coating and may contain other PFAS. Defendant additionally made  
23 false and/or deceptive representations and statements (by omission and commission)  
24 that led reasonable consumers to believe that the products were safe for their health  
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26 <sup>42</sup> CAL. CIV. CODE § 1761(d).

27 <sup>43</sup> *Id.* § 1761(a).

1 and constructed without harmful chemicals, such as PFOA and other PFAS  
2 chemicals.

3 117. Further, Defendant omitted material facts that it had a duty to disclose,  
4 as alleged above. Specifically, HexClad failed to disclose that its non-stick coating  
5 contained PTFE which is a PFAS and may contain traces, or more, of PFOAs.

6 118. Defendant's concealment of the true characteristics of the products was  
7 material to Plaintiffs and the Class Members. Had they known the truth, Plaintiffs  
8 and the Class Members would not have purchased the products or would have paid  
9 significantly less for them.

10 119. Defendant, as explained above, had an ongoing duty to Plaintiffs and  
11 the Class Members to refrain from unfair and deceptive practices under the CLRA.  
12 Specifically, Defendant owed Plaintiffs and the Class Members a duty to disclose  
13 material facts concerning the products because it possessed exclusive knowledge, it  
14 intentionally concealed them from Plaintiffs and Class Members, and/or it made  
15 partial representations that were misleading since it concealed the aforementioned  
16 facts.

17 120. Plaintiffs and Class Members had no reasonable means of learning the  
18 facts that Defendant has concealed or failed to disclose because they were unaware  
19 of the manufacturing process for Defendant's products. Furthermore, Defendant  
20 misrepresented, or at least omitted, a key part of that manufacturing process, which  
21 was the introduction of synthetic chemicals to the cookware.

22 121. Plaintiffs and Class Members suffered ascertainable loss and actual  
23 damages as a direct and proximate result of Defendant's concealment,  
24 misrepresentations, and/or failure to disclose material information.

25 122. Plaintiffs request that this Court enjoin Defendant from continuing to  
26 employ the unlawful methods, acts and practices alleged herein pursuant to the  
27

1 CLRA.<sup>44</sup> If Defendant is not restrained from engaging in these types of practices in  
 2 the future, Plaintiffs and other Class Members will continue to suffer harm.

3 123. On June 28, 2023, Plaintiffs provided Defendant with notice and a  
 4 demand on behalf of themselves and all others similarly situated that Defendant  
 5 correct, repair, replace or otherwise rectify the unlawful, unfair, false and/or  
 6 deceptive practices complained of herein. Plaintiffs have received no response.

7 **FOURTH CLAIM FOR RELIEF**  
 8 **Violation of the California False Advertising Law**  
 9 **California Business and Professions Code § 17500, *et seq.***

10 124. Plaintiffs reassert the allegations set forth previously and incorporate  
 11 such allegations by reference herein.

12 125. This cause of action is brought pursuant to the California False  
 13 Advertising Law, California Business and Professions Code § 17500, *et seq.*  
 14 (“FAL”), by Plaintiffs on behalf of the Nationwide Class.

15 126. Beginning at an exact date unknown to Plaintiffs, but since at least as  
 16 early as the time of the first Plaintiff’s purchase and continuing until today,  
 17 Defendant made untrue, false, deceptive and/or misleading statements in connection  
 18 with the advertising and marketing of the HexClad cookware products, and, in  
 19 particular, those advertised as, variously and without limitation, “non-toxic,” “metal-  
 20 utensil safe,” and “PFOA-free.”

21 127. As set forth herein, Defendant has made representations and statements  
 22 (by omission and commission) that led reasonable consumers to believe that that the  
 23 HexClad cookware products were, variously and without limitation, “non-toxic,”  
 24 “metal-utensil safe,” and “PFOA-free,” when in fact, the products contain a PTFE  
 25 chemical coating. Defendant additionally made false and/or deceptive  
 26 representations and statements (by omission and commission) that led reasonable

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27 <sup>44</sup> *Id.* § 1780(a)(3).

1 consumers to believe that the products were safe for their health and constructed  
2 without harmful chemicals, such as PFOA and other PFAS chemicals.

3 128. Plaintiffs and those similarly situated relied to their detriment on  
4 Defendant's false, misleading, and deceptive advertising and marketing practices.  
5 Had Plaintiffs and the Class Members been adequately informed and not  
6 intentionally deceived by Defendant, they would have acted differently by, without  
7 limitation, paying less for the HexClad products.

8 129. Defendant's acts and omissions were likely to deceive the general  
9 public.

10 130. Defendant engaged in these false, misleading, and deceptive  
11 advertising and marketing practices to increase its profits. Accordingly, Defendant  
12 has engaged in false advertising in violation of the FAL.

13 131. The aforementioned practices, which Defendant has used, and  
14 continues to use, to its significant financial gain, also constitute unlawful  
15 competition and provide an unlawful advantage over Defendant's competitors as  
16 well as injury to the general public.

17 132. Plaintiffs seek, on behalf of themselves and those similarly situated, full  
18 restitution of monies, as necessary and according to proof, to restore any and all  
19 monies acquired by Defendant from Plaintiffs, the general public, or those similarly  
20 situated by means of the false, misleading and deceptive advertising and marketing  
21 practices complained of herein, plus interest thereon. Even for those who did not  
22 buy the HexClad products directly from Defendant, a certain amount of money  
23 flowed from Class Members who purchased the products through retailers to  
24 Defendant. Plaintiffs seek restitution of all amounts so recoverable.

25 133. If Plaintiffs and Class Members claims at law fail, Plaintiffs, those  
26 similarly situated, and/or other consumers will have no adequate remedy at law by  
27 which they can obtain recovery for the economic harm they have suffered. Plaintiffs  
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1 seek, on behalf of themselves and those similarly situated, an injunction to prohibit  
2 Defendant from continuing to engage in the false, misleading and deceptive  
3 advertising and marketing practices complained of herein.

4 134. Plaintiffs and those similarly situated are further entitled to and do seek  
5 both a declaration that the above-described practices constitute false, misleading,  
6 and deceptive advertising, and injunctive relief restraining Defendant from engaging  
7 in any such advertising and marketing practices in the future. Such misconduct by  
8 Defendant, unless and until enjoined and restrained by order of this Court, will  
9 continue to cause injury in fact to the general public and the loss of money and  
10 property in that Defendant will continue to violate the laws of California, unless  
11 specifically ordered to comply with the same. This expectation of future violations  
12 will require current and future customers to repeatedly and continuously seek legal  
13 redress in order to recover monies paid to Defendant to which Defendant is not  
14 entitled. Plaintiffs, those similarly situated and/or other consumers have no other  
15 adequate remedy at law to ensure future compliance with the FAL alleged to have  
16 been violated herein.

17 135. As a direct and proximate result of such actions, Plaintiffs and the Class  
18 Members have suffered, and continue to suffer, injury in fact and have lost money  
19 and/or property as a result of such false, deceptive and misleading advertising in an  
20 amount which will be proven at trial.

21 **FIFTH CLAIM FOR RELIEF**  
22 **Violation of the California Unfair Competition Law**  
**California Business and Professions Code § 17200, *et seq.***

23 136. Plaintiffs reassert the allegations set forth previously and incorporate  
24 such allegations by reference herein.

25 137. This cause of action is brought pursuant to the California Unfair  
26 Competition Law, California Civil Code § 17200, *et seq.* (“UCL”), by Plaintiffs on  
27 behalf of the Nationwide Class.

1           138. Defendant has engaged in, and continues to engage in, unfair, unlawful,  
2 and deceptive trade practices in California by carrying out the unfair, deceptive and  
3 unlawful business practices outlined in this Class Action Complaint. In particular,  
4 Defendant has engaged in, and continues to engage in, unfair, unlawful and  
5 deceptive trade practices by, without limitation, the following:

- 6           a. engaging in misrepresentation and omissions as described  
7           herein;  
8           b. violating the CLRA as described herein;  
9           c. violating the FAL as described herein;  
10          d. violating the California Safer Food Packaging and Cookware  
11           Act, California Health and Safety Code § 109010, *et seq.*  
12           (“SFPCA”), as described herein.

13          139. Defendant, in its marketing, advertising, and labeling of the HexClad  
14 cookware products, made false and misleading statements and omissions regarding  
15 the quality and characteristics of the HexClad cookware, specifically, marketing and  
16 labeling the HexClad cookware as “non-toxic,” “metal-utensil safe,” and other safety  
17 claims described above when the HexClad cookware is actually manufactured with  
18 a synthetic chemical coating of PTFE. Such claims and omissions appear on the  
19 label of the HexClad cookware products, product descriptions on online stores such  
20 as Amazon, Defendant’s official website, and other advertisements.

21          140. Plaintiffs and those similarly situated relied to their detriment on  
22 Defendant’s unfair, deceptive, and unlawful business practices. Had Plaintiffs and  
23 those similarly situated been adequately informed and not deceived by Defendant,  
24 they would have acted differently by, without limitation, not paying for, or, at a  
25 minimum, paying less for the HexClad products.

26          141. Defendant’s labeling, marketing, and advertising of the HexClad  
27 cookware products led to, and continue to lead to, reasonable consumers, including  
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1 Plaintiffs and Class Members, believing that the HexClad cookware is “non-toxic,”  
2 “metal-utensil safe,” free from PFOA and other hazardous synthetic chemicals, and  
3 in conformity with other safety claims as described above.

4 142. The UCL prohibits unfair competition and provides, in pertinent part,  
5 that “unfair competition shall mean and include unlawful, unfair or fraudulent  
6 business practices and unfair, deceptive, untrue or misleading advertising.”<sup>45</sup>

7 143. Defendant does not have any reasonable basis for the claims about the  
8 HexClad cookware made in Defendant’s marketing, advertising, and on Defendant’s  
9 packaging or labeling because the HexClad cookware is not free from potentially  
10 hazardous and toxic substances, such as PFAS chemicals like PTFE. Defendant  
11 knew or should have known that the HexClad products are not “non-toxic,” “metal-  
12 utensil safe,” or free from hazardous synthetic chemicals of the same family as  
13 PFOAs, such as PTFE, yet Defendant intentionally advertised and marketed the  
14 HexClad cookware to deceive reasonable consumers into believe that the HexClad  
15 cookware products conformed to Defendant’s safety representations, as described  
16 above.

17 144. In addition, Defendant’s use of various forms of marketing and  
18 advertising media to advertise, call attention to, or give publicity to the sale of goods  
19 or merchandise that are not as represented in any manner constitutes unfair  
20 competition, unfair, deceptive, untrue, or misleading advertising, and an unlawful  
21 business practice within the meaning of Business and Professions Code §§ 17200  
22 and 17531.

23 145. Defendant engaged in these unlawful, deceptive, and unfair practices to  
24 increase its profits. Accordingly, Defendant has engaged in unlawful trade practices  
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26 <sup>45</sup> CAL. BUS. & PROF. CODE § 17200.  
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1 prohibited by the UCL.

2 146. Defendant failed to avail itself of reasonably available, lawful  
3 alternatives to further its legitimate business interests.

4 147. Defendant has engaged in unfair practices by violating the SFPCA,  
5 which provides, “a manufacturer shall not make a claim that the cookware is free of  
6 any specific chemical if the chemical belongs to a chemical group or class identified  
7 on the designated list, unless no individual chemical from that chemical group or  
8 class is intentionally added to the cookware.”<sup>46</sup> Defendant represents that the  
9 HexClad cookware is “non-toxic” and free of PFOAs; however, the HexClad  
10 cookware, in fact, contains a synthetic chemical coating of PTFE, a chemical of the  
11 same family as PFOAs and PFAS substances, each of which are included on the  
12 California Department of Toxic Substances Control’s designated list.

13 148. In addition to the unlawful and deceptive acts described above,  
14 Defendant engaged in unfair practices by violating the Federal Trade Commission’s  
15 guides against bait advertising. 16 C.F.R. §§ 238.1–4. The policy provides that “No  
16 statement or illustration should be used in any advertisement which creates a false  
17 impression of the grade, quality, make, value, currency of model, size, color,  
18 usability, or origin of the product offered, or which may otherwise misrepresent the  
19 product in such a manner that later, on disclosure of the true facts, the purchaser may  
20 be switched from the advertised product to another.”<sup>47</sup> Defendant’s aforementioned  
21 acts violated this policy, including its representations that the HexClad cookware is  
22 “non-toxic,” “metal-utensil safe,” and other safety claims described above.

23 149. The aforementioned practices, which Defendant has used to its  
24 significant financial gain, also constitute unlawful competition and provides an  
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26 <sup>46</sup> CAL. HEALTH & SAFETY CODE § 109013.

27 <sup>47</sup> 16 C.F.R. § 238.2(a).

1 unlawful advantage over Defendant's competitors as well as injury to the general  
2 public.

3 150. As a direct and proximate result of such actions, Plaintiffs and the Class  
4 Members have suffered and continue to suffer injury in fact and have lost money  
5 and/or property as a result of such deceptive, unfair and/or unlawful trade practices  
6 and unfair competition in an amount which will be proven at trial.

7 151. The injuries to Plaintiffs and Class Members resulting from  
8 Defendant's unfair business practices outweigh any benefits. Defendant's actions  
9 of marketing, advertising, and labeling the HexClad cookware as "non-toxic,"  
10 "metal-utensil safe," and free of PFOAs does not confer any benefit to consumers  
11 when the consumers do not receive products commensurate with the consumers'  
12 reasonable expectations engendered by such false, misleading, and deceptive  
13 marketing and labeling. Consumers cannot reasonably avoid the injuries caused by  
14 Defendant's deceptive labeling and advertising of the HexClad cookware.  
15 Accordingly, the injuries caused by Defendant's deceptive labeling, marketing, and  
16 advertising outweigh any benefits.

17 152. If Plaintiffs' and Class Members' claims at law fail, Plaintiffs, those  
18 similarly situated and/or other consumers will have no adequate remedy at law by  
19 which they can obtain recovery for the economic harm they have suffered.

20 153. Plaintiffs seek, on behalf of themselves and those similarly situated, a  
21 declaration that the above-described trade practices are fraudulent, unfair, and/or  
22 unlawful.

23 154. Plaintiffs seek, on behalf of themselves and those similarly situated, an  
24 injunction to prohibit Defendant from offering the Products within a reasonable time  
25 after entry of judgment. Such misconduct by Defendant, unless and until enjoined  
26 and restrained by order of this Court, will continue to cause injury in fact to the  
27 general public and the loss of money and property in that Defendant will continue to  
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1 violate the laws of California unless specifically ordered to comply with the same.  
2 This expectation of future violations will require current and future consumers to  
3 repeatedly and continuously seek legal redress in order to recover monies paid to  
4 Defendant to which it was not entitled. Plaintiffs, those similarly situated and/or  
5 other consumers have no other adequate remedy at law to ensure future compliance  
6 with the California Business and Professions Code alleged to have been violated  
7 herein.

8 **SIXTH CLAIM FOR RELIEF**  
**Unjust Enrichment**

9 155. Plaintiffs reassert the allegations set forth previously and incorporate  
10 such allegations by reference herein.

11 156. Plaintiffs bring this claim for unjust enrichment against Defendant in  
12 the alternative to their breach of express warranty claim.

13 157. Plaintiffs and Nationwide Class members conferred benefits on  
14 Defendant by purchasing the HexClad cookware products, including by paying a  
15 price premium for the HexClad cookware.

16 158. Defendant has been unjustly enriched by retaining the revenues derived  
17 from Plaintiffs and the Nationwide Class Members' purchases of the HexClad  
18 cookware. Retention of the monies under these circumstances is unjust and  
19 inequitable because Defendant's labeling of the HexClad cookware was misleading  
20 to consumers, which caused injuries to Plaintiffs and the Nationwide Class Members  
21 because they would not have purchased or would have paid less for the HexClad  
22 cookware if they had known the true facts regarding Defendant's "non-toxic" and  
23 other safety claims, as described above.

24 159. Because Defendant's retention of the non-gratuitous benefits conferred  
25 on them by Plaintiffs and the Nationwide Class Members is unjust and inequitable,  
26 Plaintiffs and the Nationwide Class Members seek return of all monies Defendant  
27 acquired from its unlawful conduct, including disgorgement of all profits and  
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1 establishment of a constructive trust.

2 160. Therefore, Plaintiffs pray for relief as set forth below.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs respectfully pray for judgment in their favor as  
5 follows:

- 6 a. Certification the Class pursuant to the provisions of Rule 23 of the  
7 Federal Rules of Civil Procedure and an order that notice be provided  
8 to all Class Members;
- 9 b. Designation of Plaintiffs as representatives of the Class and the  
10 undersigned counsel, Zimmerman Reed LLP and the Johnson Firm, as  
11 Class Counsel;
- 12 c. An award of damages in an amount to be determined at trial or by this  
13 Court;
- 14 d. An order for injunctive relief, enjoining Defendant from engaging in  
15 the wrongful and unlawful acts described herein;
- 16 e. An award of statutory interest and penalties;
- 17 f. An award of costs and attorneys' fees; and
- 18 g. Such other relief the Court may deem just and proper.

19 **DEMAND FOR TRIAL BY JURY**

20 Plaintiffs hereby demand a trial by jury of all issues so triable.

21  
22  
23 Dated: June 27, 2023

Respectfully submitted,

/s/ Caleb Marker

Caleb Marker (SBN 269721)  
caleb.marker@zimmreed.com  
**ZIMMERMAN REED LLP**  
6420 Wilshire Blvd., Suite 1080  
Los Angeles, California 90048  
Telephone: (877) 500-8780  
Facsimile: (877) 500-8781

1 Brian C. Gudmundson  
2 (*pro hac vice* forthcoming)  
3 Rachel K. Tack  
4 (*pro hac vice* forthcoming)  
5 **ZIMMERMAN REED LLP**  
6 1100 IDS Center  
7 80 South 8th Street  
8 Minneapolis, MN 55402  
9 Telephone: (612) 341-0400  
10 Facsimile: (612) 341-0844  
11 brian.gudmundson@zimmreed.com  
12 rachel.tack@zimmreed.com

13 Christopher D. Jennings  
14 (*pro hac vice* forthcoming)  
15 Tyler B. Ewigleben  
16 (*pro hac vice* forthcoming)  
17 **JOHNSON FIRM**  
18 610 President Clinton Avenue, Suite 300  
19 Little Rock, Arkansas 72201  
20 Telephone: (501) 372-1300  
21 chris@yourattorney.com  
22 tyler@yourattorney.com

23 *Attorneys for Plaintiff*  
24  
25  
26  
27  
28